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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/960,563

09/12/2001

Bernd Petzold

10191/2020

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26646

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02/12/2009

KENYON & KENYON LLP  
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NEW YORK, NY 10004

EXAMINER

TO, TUAN C

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

02/12/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/960,563	<b>Applicant(s)</b> PETZOLD ET AL.	
	<b>Examiner</b> TUAN C. TO	<b>Art Unit</b> 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 16-19, 22-25, 27-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19, 22-25 and 27-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 16-19, 22-25, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Mutsuga et al. (US 5911773A).

With regard to claim 24 and 25, the U.S. reference to Mutsuga et al. has been cited as teaching a navigation system including a calculation unit which is the central processing unit (4) shown in figure 1(A) of Mutsuga et al, and that processing unit (4) calculates a first route and second route from the starting point to the destination point (Mutsuga et al., figure 2, central processing unit 4; figure 15A). In figure 2, the display (12) is described as a claimed reproducing device for displaying the navigation data including map and routes. As shown in figure 1(A) of Mutsuga et al, the communication unit (5) is provided for receiving the traffic disruption on the first route and second route,

Art Unit: 3663

and the display device (12) reproduced the traffic disruption such as the congested section shown in figure 15(A). Mutsuga et al. also teach that the traffic disruption such as the traffic congestion on the main road from the point P to the destination (see Mutsuga et al, column 9, lines 61-67; figure 15A).

Mutsuga et al discloses an input device configured to enable the user to input data to manipulate or change the routes that is selected for guiding the user to travel from a starting point to a destination (see figure 16-19).

With regard to claim 16, the input means (11) shown figure 1(A) of Mutsuga et al. is configured to enable the user to select one of the reproduced route.

With regard to claim 17, Mutsuga et al. teach that the main road (first route) and the general road as a detour route (second route) are reproduced on the display (12) as partially shown in figure 15(A) when the congested section on the main road is determined.

With regard to claim 18, Mutsuga et al. teach that the traffic jam is fixed as the predefined route criteria (Mutsuga et al, column 6, lines 32-53)

With regard to claim 19, the navigation system disclosed by Mutsuga et al. further include an input mean unit (11) for weighting at least one route criteria.

With regard to claim 22, Mutsuga et al. teach that the information regarding traffic disruption includes information regarding traffic congestion (Mutsuga et al., column 6, lines 38-47).

With regard to claim 23, figure 15(A) taught by Mutsuga et al. clearly shows that the traffic disruption is reproduced altogether with the main road which is the first road

Art Unit: 3663

(claimed first route) and the general road which is the second road (claimed second route). A congested section is specifically indicated on the main road.

With regard to claim 27, the input means (11) shown figure 1(A) of Mutsuga et al. is configured to enable the user to select one of the reproduced route.

Mutsuga et al. further teach that when the congested section of the main road (see Mutsuga et al, figure 15(A)) has been determined, another route (general route) begin to start from a new starting point to the destination.

With regard to claim 28, the communication unit (5) as represented above is configured to receive at least one type of traffic disruption such as traffic jam, and the display (12) is the reproducing device for displaying such the traffic disruption.

With regard to claim 29, the reproduction device is not only but also a speaker (16) as reproducing device for reproducing the acoustical signal to a user (Mutsuga et al., figure 2, speaker 16).

While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

### ***Response to Amendment***

The applicant's request for continued examination filed on 11/24/2008 has been fully considered. However, the application cannot be placed in a condition of allowance because the cited reference to Mutsuga et al discloses an input device configured to enable the user to input data to manipulate or change the routes that is selected for guiding the user to travel from a starting point to a destination.

***Conclusions***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan C To whose telephone number is (571) 272-6985. The examiner can normally be reached on from 8:00AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan C To/

Primary Examiner of Art Unit 3663/3600

December 11, 2008

Application/Control Number: 09/960,563  
Art Unit: 3663

Page 6